REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 11-24 are pending in the present application, Claims 23 and 24 having been added. Support for new Claims 23 and 24 is found, for example, at page 15, line 16 to page 16, line 17, and Applicants' Figs. 3, 4, and 12B. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 11-22 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement; Claims 11-13, 15, 20-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. 2003/0172160A9 to Widegren et al. (hereinafter Widegren); Claim 14 was rejected under 35 U.S.C 103(a) as being unpatentable over Widegren in view of U.S. 2004/0053606A1 to Artamo et al. (hereinafter Artamo); Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over Widegren in view of WO 00/10357 to Haumont; and Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Widegren in view of U.S. 2002/0068588A1 to Yoshida et al (hereinafter Yoshida).

Applicants respectfully traverse the rejection of Claims 11-21 under 35 U.S.C. §112, first paragraph. To satisfy the written description requirement, the specification need only describe the claimed invention in sufficient detail so that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.[1]

Applicants' Fig. 2B shows a process of connection setting. Page 12, lines 4-18 of the specification describe messages 5 and 6 as including QoS information regarding traffic class. The control apparatus 3 determines IP priority by the traffic class which is contained in message 6 and the priority determination table T1 (S102), and the control apparatus 3 sets the

[1] *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555 (Fed. Cir. 1991).

destination port information table T3 (S103).[2] Base station 2 receives IP priority information from the control apparatus 3, and sets the base station transmission/reception information table T6 (S103).[3] When the destination port information table T3 and the base station transmission/reception information table T6 are set, the IP priority is associated with RAB (Radio Access Bearer), which is a transfer path (see Applicants' Figs. 8 and 10). That is, the specification describes that priority is set to the transfer path.

Page 8, lines 11-23 of the specification states:

> As shown in FIG. 7, the RAB identification table T2 stores priority information in association with an IP address, a UDP port number, a TEID (tunneling endpoint identifier) and an RAB, with respect to a received packet.
>
> As shown in FIG. 8, the destination port information table T3 stores priority information in association with Node B-side transmission/reception port information, SGSN-side transmission/reception port information and a priority, with respect to a predetermined RAB. The Node B-side transmission/reception port information includes an IP address and a UDP port number of the base station (Node B) side, the SGSN-side transmission/reception port information includes an IP address and a UDP port number of the SGSN side.

Thus, the transfer path has a corresponding priority as indicated by the tables in Applicants' Figs. 7 and 8. In other words, the control unit sets a priority to the transfer path as indicated by the tables of Applicants Figs. 7 and 8.

Page 12, lines 19-25 of the specification states:

> In step S102, the priority determining unit 34 of the control apparatus 3 determines a priority (such as the DCP or the ToS) of the IP packets to be transferred over the traffic path, by referring to the priority determination table T1 based on the traffic class contained in the received message 6. Then the priority determining unit 34 stores the determined priority to the database (memory) 31.

[2] Specification, page 12, line 19 to page 13, line 8.
[3] Specification, page 13, line 9 to page 14, line 8.

In step S102, the priority is set for the transfer path, which corresponds to the "IP packets ***to be*** transferred." "To be transferred" merely refers to future packets that will be transferred over the transfer path. IP packets that require real-time communication are transferred over a transfer path set with a higher priority.[4]

Thus, Applicants respectfully submit that Claims 11-21 satisfy the requirements of 35 U.S.C. §112, first paragraph, because the specification describes the claimed invention in sufficient detail so that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.

Applicants respectfully traverse the rejection of Claim 11 as anticipated by Widegren.

It is noted that the Office has violated 37 CFR §1.104(b) and MPEP §2163.06. 37 CFR §1.104(b) requires that the Examiner's action be complete as to all matters. MPEP §2163.06 indicates that subject matter added to the claims must be considered for prior art purposes even if the Examiner does not think the subject matter is supported. Thus, it is improper for the Office Action to not consider the claimed "a priority setting unit configured to set a priority for the transfer path such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit" with respect to the prior art.

The Office Action fails to provide any evidence or technical reasoning to support a position that Widegren discloses or suggests the claimed "a priority setting unit configured to set a priority for the transfer path such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit."

[4] Specification, page 13, lines 5-8.

In Widegren, priority is based on a negotiation between the endpoints and packets of data of assigned a given priority based on their respective endpoints.[5] As discussed in paragraph [0074] of Widegren, the IP header of the packet defines the QoS for the packet. This is not the same as ***setting a priority for the transfer path*** such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit.

The Office heavily relies upon paragraph [0098] of Widegren to describe setting a priority. However, paragraph [0098] of Widegren merely states "RNC determines the radio-related parameters corresponding to the QoS profile." Assuming, *arguendo*, that priority data is carried by the "radio-related parameters," this priority data is specific to packets transferred between the mobile stations (A and B discussed *supra*) and is not specific to a transfer path. While the Office takes the position that the "radio-related parameters" of Widegren implicitly "carry the priority of the data,"[6] there is no evidence in the record to suggest that the "radio-related parameters" carry "***a priority for the transfer path*** such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit."

Furthermore, RAB QoS attributes are not the same as setting a priority for the transfer path. There is no indication in Widegren that any priority regarding the RAB QoS attributes are set as the priority for the transfer path.

In view of the above-noted distinctions, Applicants respectfully submit that Claim 11 (and any claims dependent thereon) patentably distinguish over Widegren. Claims 20, 21 and 22 recite elements analogous to those of Claim 11. Thus, Applicants respectfully submit that Claims 20, 21 and 22 patentable distinguish over Widegren for at leas the reasons stated for Claim 11.

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[5] Widegren, paragraphs [0073]-[0074].
[6] Office Action, page 10.

The secondary references to Artamo, Haumont and Yoshida are cited for teachings of the dependent claims the rejection of which relies on the teachings of Widegren as noted above. Therefore, the secondary references do not correct the deficiencies of Widegren and independent Claims 11, 20, 21 and 22 patentably define over the cited references, taken alone or in proper combination.

Consequently, in view of the present response, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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